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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,447	08/19/2003	Jerome A. Cohen	6842-0001-1	4405

7590 10/20/2004

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EXAMINER

CHAPMAN, JEANETTE E

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/643,447

Applicant(s)

COHEN, JEROME A.

Examiner

Chapman E Jeanette

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 7-9 and 11-18 is/are rejected.
- 7) ☒ Claim(s) 4, 6 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: patent copy with annotations.

35 USC 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-~~10~~ are rejected under 35 U.S.C. 112, first paragraph, because the best mode contemplated by the inventor has not been disclosed. Evidence of concealment of the best mode is based upon the following:

The specification page 4, discloses element 20 as being both end connectors and structural straps. The specification discloses element 22 as a slot and a structural strap. The drawings do not aid in understanding the structure but make it more difficult to understand the structure of each element and how they fit together to form the curved wall. Further, figure 7 does not show any structural member 18 nor larger structural members as stated on specification page 7.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 USC 102 that form the basis for the rejection under this section made in this office action.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 5, 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Paradis (6115984). Paradis discloses a system for making curved walls. The system comprises:

- A plurality of connector plates 16 each including retaining means for receiving an end of a structural member 12;
- A plurality of spacer plates 16; see annotations on patent copy;
- The connector plates are rotatably coupled to one another by the spacer plates;
- To form a wall a pair of connector plates is coupled via a retaining means 22/42/40, one to each pair of opposing ends of a structural member; the retaining means 22 includes a pocket 16/22, column 4, lines 1-30, defined in part by upstanding walls; said pocket is configured to receive and retain complimentary shaped structural members
- The connector plates rotatably movable relative to the spacer plates thereby allowing the structural members 12 to be oriented relative to one another so as to form a surface having a desired contour capable of accommodating a wall forming member between the structural members;
- At least two spacer plates are interposed between successive connector plates;
- Each spacer plates are rotatably coupled to one of said connector plates and slidably connected to one another, by 40/42, so that the distance between successive connector plates, as well as the orientation of successive connector plates relative to one another can be changed;
- A pair of structural straps each extending between and engaging an outer surface defined by the connector plates 16, figures 3 and 7; one of the

straps being positioned adjacent to and extending approx. perpendicular to one distal end defined by said structural members and the other strap being positioned to and adjacent to and extending approx. perpendicular to a generally opposing distal end defined by the structural members;

- At least a portion of the side wall 22 define apertures 54 for receiving a fastener there through into the structural member; column 5, lines 1-25; there are at least four fasteners; see figure 6

35 USC 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 11-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paradis '984 in view of Weiss et al (5921056). Paradis' 984 lacks the adjustment means. Gross discloses connector and spacer plates that may be used in curved form and wall construction. The same includes an adjustment means for selectively increasing or decreasing the distance between successive spacer and connector plate; see column 5, lines 1-15. It would have been obvious to one of ordinary skill in the art to modify Paradis '984 to add the rivets on both plates in order to adjust the distance between the plates to accommodate variations in sizes of the studs and the curved walls to be constructed.

The elements of Paradis are capable of being placed in a container to be conveniently packaged for sale; one of ordinary skill in the art would have appreciated packaging the products in any convenient method to enable the idea to be conveniently sold and marketed; Kits are well known in the construction industry and the base reference shows the elements together as a unitary body and highly probable to be packaged together. See figure 4.

The space between the straps would readily receiver wires thus the same may be considered as the spacer plates defining means for creating an aperture for allowing conduit wire. The means in which this space is created has been considered a matter of choice; one of ordinary skill in the art would have appreciated any means commensurate with the structure and method of making the device enabling a space for conduit wires; the method of forming the opening is not critical to the opening and the capability of wires to pass through.

The last connector plate on each opposite end has been considered as the end plates. See annotations on patent copy. See 35 USC 112 rejection above. For the other recited elements see 35 USC 102 rejection above.

Claim(s) 4, 6,10 is/are objected to as depending on a rejected claim but would be considered as allowable if amended to include the base claim and any intervening claims

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E Jeanette whose telephone number is 703-

Application/Control Number: 10/^{643,447}~~82,833~~
Art Unit: 3635

Page 6

308-1310. The examiner can normally be reached on Mon.-Fri, 8:30-6:00, every other fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jeanette Chapman
Primary Examiner



US006115984A

United States Patent [19]

Paradis

[11] Patent Number: 6,115,984

[45] Date of Patent: *Sep. 12, 2000

[54] FLEXIBLE RUNNER

[76] Inventor: Yvon Paradis, 3371 Soissons,
Longueuil, Québec, Canada, J4L 3M3

[*] Notice: This patent issued on a continued prosecution application filed under 37 CFR 1.53(d), and is subject to the twenty year patent term provisions of 35 U.S.C. 154(a)(2).

[21] Appl. No.: 08/942,003

[22] Filed: Oct. 1, 1997

[51] Int. Cl.⁷ E04G 11/06[52] U.S. Cl. 52/717.03; 52/247; 52/717.06;
52/86; 52/631; 52/481.1[58] Field of Search 52/245, 247, 717.03,
52/717.06, 85, 86, 745.07, 631, 486.1,
482, 781

[56] References Cited

U.S. PATENT DOCUMENTS

2,163,613 6/1939 Manofsky 52/85

3,706,173 12/1972 Taylor 52/717.03
4,055,922 11/1977 Ellington et al. 52/245 X
5,816,002 10/1998 Bifano et al. 52/85 X

FOREIGN PATENT DOCUMENTS

453415 10/1991 European Pat. Off. 52/245

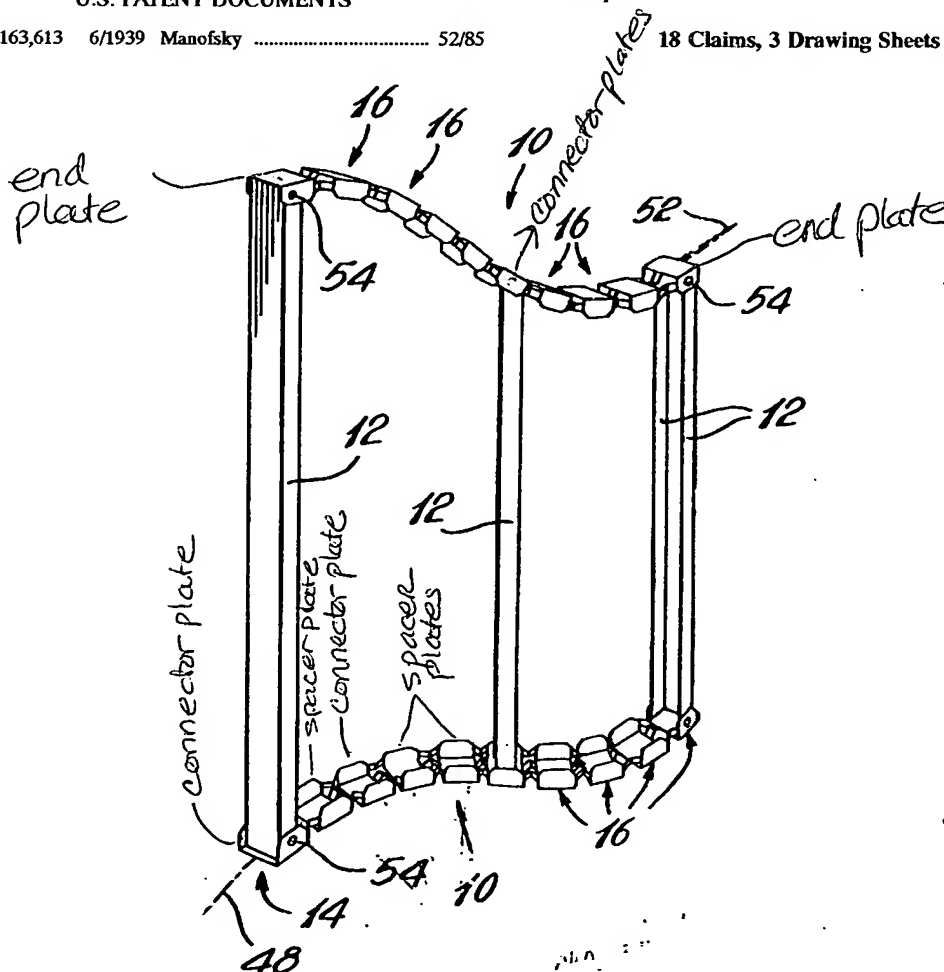
Primary Examiner—Carl D. Friedman

Assistant Examiner—Brian E. Glessner

[57] ABSTRACT

A runner for maintaining at least two studs in a predetermined relationship relatively to one another so as to allow for the construction walls presenting a laterally curved portion, walls erected in a space where the distance between a floor and a ceiling varies or half walls having a figured upper end. Each runner includes at least two stud receiving components. Each of the stud receiving components is configured and sized for receiving one of the stud end portions. Each stud receiving component is provided with a linking structure mounted thereon for mechanically linking with an adjacent stud receiving component while allowing the linked stud receiving components to be angled relatively to each other. Each stud receiving component has a generally "U"-shape.

18 Claims, 3 Drawing Sheets



PATENT COPY W/ANNOTATIONS

PATENT COPY W/ANNOTATIONS